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10 **UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF WASHINGTON**

11 STATE OF WASHINGTON;  
12 STATE OF OREGON; STATE OF  
ARIZONA; STATE OF  
13 COLORADO; STATE OF  
CONNECTICUT; STATE OF  
DELAWARE; STATE OF  
14 ILLINOIS; ATTORNEY GENERAL  
OF MICHIGAN; STATE OF  
NEVADA; STATE OF NEW  
15 MEXICO; STATE OF RHODE  
ISLAND; and STATE OF  
16 VERMONT,  
17

18 Plaintiffs,

19 v.

20 UNITED STATES FOOD AND  
DRUG ADMINISTRATION;  
21 ROBERT M. CALIFF, in his official  
capacity as Commissioner of Food  
and Drugs; UNITED STATES

NO. 1:23-cv-03026

ORDER GRANTING PLAINTIFF  
STATES' MOTION FOR  
PRELIMINARY INJUNCTION

[PROPOSED]

03/27/2023

With Oral Argument at time and  
location to be determined by Court

ORDER GRANTING PLAINTIFF  
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[PROPOSED]

1 DEPARTMENT OF HEALTH AND  
2 HUMAN SERVICES; and XAVIER  
3 BECERRA, in his official capacity  
as Secretary of the Department of  
Health and Human Services,

4 Defendants.

5 This matter came before the Court on Plaintiff States' Motion for  
6 Preliminary Injunction. The Court has considered all of the following:

- 7 1. Plaintiff States' Motion for Preliminary Injunction (ECF No. \_\_\_\_\_)  
8 with supporting declarations and exhibits;
- 9 2. Defendants' Response to Plaintiff States' Motion for Preliminary  
10 Injunction (ECF No. \_\_\_\_\_);
- 11 3. Plaintiff States' Reply in Support of Motion for Preliminary  
12 Injunction (ECF No. \_\_\_\_\_); and
- 13 4. The entire record in the above-captioned matter.

14 Being fully apprised of the matter, now, therefore, it is hereby  
15 ORDERED, ADJUDGED, AND DECREED that the Plaintiff States'  
16 Motion for Preliminary Injunction is hereby GRANTED.

17 The Court finds that the Plaintiff States have established a likelihood of  
18 success on the merits of their claims under the Administrative Procedure Act, that  
19 they would suffer irreparable harm absent preliminary injunctive relief, and that  
20 the balance of equities and the public interest weigh in favor of an injunction.

1       The Court, therefore, hereby GRANTS a preliminary injunction against  
2 the enforcement or application of the mifepristone Risk Evaluation and  
3 Mitigation Strategy (REMS). The Court further GRANTS a preliminary  
4 injunction enjoining Defendants from taking any action to remove mifepristone  
5 from the market or cause the drug to become less available. The Court finds that  
6 the available evidence demonstrates that mifepristone is extremely safe and  
7 effective for the termination of intrauterine pregnancies up to 70 days gestation.  
8 The restrictions imposed by the REMS, including the Elements to Assure Safe  
9 Use, are contrary to 21 U.S.C. § 355–1 and arbitrary and capricious. If the REMS  
10 were to continue to be in effect, or the FDA took any other action that limited the  
11 availability and use of mifepristone, it would irreparably harm the Plaintiff States,  
12 including by burdening Plaintiff State institutions and providers who provide  
13 abortion care and dispense mifepristone, imposing uncompensable financial costs  
14 on the Plaintiff States, and harming the health and well-being of Plaintiff State  
15 patients and providers.

16       Thus, pursuant to Rule 65(a) of the Federal Rules of Civil Procedure, the  
17 Food and Drug Administration, the Department of Health and Human Services,  
18 their officers, agents, servants, employees, and attorneys, and any person in active  
19 concert or participation with them, are hereby PRELIMINARILY ENJOINED  
20 from enforcing or applying the mifepristone Risk Evaluation and Mitigation  
21 Strategy and from taking any action, direct or indirect, to remove mifepristone

1 from the market or cause the drug to become less available, in any manner or in  
2 any respect, and shall preserve the status quo until further order of the Court.

3 No bond shall be required pursuant to Federal Rule of Civil  
4 Procedure 65(c).

5 It is SO ORDERED.

6 ISSUED this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

7  
8 JUDGE/MAGISTRATE

9 Presented by:

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11 Attorney General

12 /s/ Kristin Beneski

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